

### **Inception impact assessment - Plant and forest reproductive material (revised rules)**

**Please, find below preliminary FI comments on the roadmap that is open for feedback until 13<sup>th</sup> July 2021.**

We welcome the Commission's initiative to launch an impact assessment and see that assessment is beneficial in order to get more information about some aspects of the legislation. We share the presented view in the roadmap that the current legislation has proven its success in guaranteeing the identity, performance, quality and health of all PRM. Because of that, the core principles of the existing legislation remain valuable for commercial PRM production but there is room for some improvements. We also appreciate the approach that all interested parties have possibility to comment and will be consulted throughout the complete legislative initiative.

Though this impact assessment will focus on some specific aspects, we believe that it is also necessary to take into account other, sometimes very specific legislative problems, which have been recognized during the past years. It is understandable that it is not possible to list all of the problems here, as Commission has stated in the meetings. However, we would welcome that Member States and stakeholders could bring possible problems to attention/discussion during the impact assessment.

#### **More detailed comments on the presented points:**

- It is positive that legislative procedures related to adding/deleting species as well as to other amendments and granting equivalences, will be investigated. It is also important to investigate how to remove legislative duplicates/non-uniformities and improve coherence with other related legislation (e.g. plant health regulation).
- Definitions can sometimes be difficult to clearly define or be ambiguous. It usually leaves room for different kinds of interpretations if definitions are not clear. Certain definitions in the impact assessment are in a need for clarification such as "marketing", "operator", "seed conservation network", "amateur gardener" and "amateur variety". Concerning the last-mentioned three definitions; if they will be used in the legislation, it would be important to clearly define which kind of operators/which kind of operations would fall under these definitions and would there be some common criteria (private, public, amount of revenue, amount of PRM exchanged or non-profitability, package-size etc.)? There can also be relative differences in different Member States about the size of the specific market/amount of the operators and that should be taken into account.
- *"Increasing the number of tasks that operators may carry out under supervision of the competent authorities such as the tests carried out for registration and certification."* We would welcome if it could be explained in more detail which kind of tasks are meant and in which PRM sector (seeds or other) they are concerning. It could be valuable to take into account that in some countries where e.g. the seed market and number of operators is relatively small, there might not be interested operators to carry out supervision, or this could possibly also be too burdensome and increase the costs for the operators. This is partly mentioned in the economic impacts section in the roadmap. This aspect should therefore be investigated versatility in inquires to NCA and to stakeholders/operators. In addition, possible differences of the PRM sectors should also be taken into account. In the fruit plant certification, it has been beneficial to allow the supplier to participate in the certification process ("the responsible official body and, where appropriate, the supplier shall") i.e. it has been up to a member state whether a supplier or an official body performs certain tasks.

- With respect to official controls and to the Official Controls Regulation, it would be very helpful, if an extensive cost-benefit analysis will be carried out (including or excluding the PRM legislation in the scope of the Official Controls Regulation). It should be also analysed carefully what would be a feasible and cost-effective way to apply OCR on plant propagating material, if applied at all, for example the OCR import regime has two levels, one for lower risk products and one for higher risk products.
- *“Introducing mandatory sustainability criteria into variety testing.”* We would like to emphasize, that growing conditions in different parts of EU differ significantly and therefore it is likely very demanding to set common mandatory EU criteria for VCU trials and add some sustainability criteria. Therefore, some flexibility would be needed, as well as determination of the term “sustainability”. It is valuable, that criteria to VCU trials is set so that best performing varieties for certain growing conditions can be found, as it already is. Differences of expenditure levels in Member States and how practical arrangements are organized, should be taken into account when expenditures or their harmonization is explored.
- As what comes to organic varieties; the temporary experiment, that is about to start 2022 will bring more information in coming years and the related preparatory discussion should be taken into account. Investigation of organic seed market and possible obstacles could be worthwhile, but perhaps not an item for this assessment?
- *“Create a specific EU framework for the exchange in kind between farmers of PRM and services restricting this activity e.g. to farmers belonging to an association/network.”* More information about this and the related definitions should be provided. It should be explored will this have some impacts with the view of the plant breeder’s rights and to supervision of the marketing of seeds? It could be also investigated are there differences in the use of farm-saved-seed/certified seed in EU countries and will this have some influences.
- *“Support innovation and the development of digital technologies and bio-molecular techniques in the PRM sector”* This is welcomed approach. Development of rules, definitions etc. in important international organizations such as OECD, ISTA, UPOV etc. should be taken into account also in impact assessment e.g. in innovation related and other legislative topics.
- We see that amateur and conservation varieties are important and it is necessary to assess their role and suitability of the legislation to their registration, [certification] and marketing and to develop processes to enhance their marketing. Modern varieties should remain in the core of the PRM legislation and rules.

#### **Specific comments on Forest reproductive material – FRM**

We see it necessary and welcome the approach that FRM will be kept as separate legal instrument as Commission has stated. Forests and the forest-based sector provide multiple socio-economic functions and benefits, including jobs and growth opportunities in rural areas and sustainable raw wood materials and products that are key in EU's transition to a sustainable climate-neutral economy. Finland would like to emphasize that the revision of the legislation should be done in a way that all the aspects of sustainability; economical, ecological and social aspects are taken into account. We agree with the Commission that improved FRM legislation combined with sustainable forest management would result in healthy and resilient forests. This has many positive effects, but it will especially improve forest growth and improve carbon sequestration in forests.

One of the best ways to increase forest growth and improve the health of trees is forest tree breeding. Tree breeding allows speeding up climate change adaptation of forests, thus ensuring their continued productivity in the future. Improved reforestation material is also genetically diverse. That is why it is important that the legislation, in particular the testing requirements, will be revised in a way that the developments in forest breeding and biotechnology are taken into account.

Also, it is important that the use of diverse material produced in the genetic resource collections is possible in forestry and their requirements must be clarified.

There are many possibilities in the development of digital control systems and those possibilities should be investigated thoroughly (for example EU-level portal for factsheets and supplier's documents when moving material within EU).

*“Keeping the scope of the FRM legislation or extending the scope to certain clearly defined non-forestry purposes (agroforestry and biodiversity purposes, biomass and energy generation)”* One of the main possible changes to FRM legislation would be the extension of the scope of FRM. This has to be assessed carefully. Specifically;

- What is the impact of the extension on the number of regulated tree species and the administrative burden?
- Do the Member States have basic material that meets the requirements for those new species?
- What is the impact of the extension on the availability, movement and import of tree propagating material to other sectors (e.g. horticulture) where there are no requirements for origin?
- There is also need to define what is meant by “biodiversity purposes”. Does it refer to genetic biodiversity or biodiversity of species or habitats?